



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8**

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SEP 10 2015

Ref: 8EPR-N

Keith Rigtrup, Project Manager  
Bureau of Land Management  
Kanab Field Office  
669 South Highway 89 A  
Kanab, Utah 84741

RE: Alton Coal Tract Lease by Application Supplemental Draft EIS, CEQ #20150164

Dear Mr. Rigtrup:

The U.S. Environmental Protection Agency Region 8 has reviewed the Bureau of Land Management (BLM) June 2015 Alton Coal Tract Lease by Application Supplemental Draft Environmental Impact Statement (SDEIS). Our comments are provided for your consideration pursuant to our responsibilities and authority under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act (CAA).

**Background**

The SDEIS analyzes the potential impacts of leasing and mining coal reserves in the Alton Coal tract. This tract encompasses 3,576 acres of land 0.10 miles south of the town of Alton in southwestern Utah. Coal is anticipated to be extracted at a rate of approximately 2 million tons per year for approximately 25 years using surface and underground mining techniques. Coal will be trucked a distance of 110 miles to a rail loadout location near Cedar City, Utah. The SDEIS analyzes four alternatives. Under Alternative A, the no action alternative, BLM would not offer the tract for lease. However, mining would occur at the Coal Hollow Mine, a 653-acre private lease adjacent to the proposed tract. Alternative B is the applicant's proposed action including the entire tract of 3,576 acres. Alternative C includes reduced tract acreage by excluding Block NW, near the town of Alton, as well as seasonal restrictions in the southern portion of the tract (Block S) to reduce resource conflicts. Alternative K1 excludes both Block NW and Block S. The BLM does not identify an agency preferred alternative in the SDEIS.

The EPA participated as a cooperating agency with the BLM in development of the SDEIS. Through that process, many of the EPA's concerns identified during review of the Draft EIS have been resolved. We appreciate the additional mitigation measures incorporated to reduce air quality impacts as well as the improvements made in the analysis of potential environmental justice impacts. Our primary concern at this stage of the process is based on potential impacts to wetlands. This letter discusses our remaining comments and recommendations.

## **Wetlands**

The BLM has not selected a preferred alternative in the SDEIS, and potential wetland impacts are significantly different among the three action alternatives (Alternatives B, C, and K1). Alternative B would result in the destruction of 32.5 acres of wetlands, 32.4 acres associated with mining in Block NW and 0.1 acre due to relocation of KFO Route 116, while Alternative C and Alternative K1 would result in impacts to 0.3 acres of wetlands due to the relocation of KFO Route 116. The 32.5 acres of wetland impacts from Alternative B are more than 50% of all wetlands identified in the project area. The wetland area in Block NW also comprises the largest contiguous wetland area, as well as the highest quality wet meadow in the project area. Successful mitigation of these losses would be difficult if not impossible due to a scarcity of water resources in the project area. Consequently, these wetlands should be considered difficult to replace and losses of these wetlands should be avoided.

The preliminary jurisdictional determination completed by the U.S. Army Corps of Engineers (Corps) for the SDEIS has determined that the wetlands in Block NW are waters of the U.S. for purposes of the Clean Water Act (CWA). Therefore, a CWA Section 404 permit would be required from the Corps for any discharge of dredged or fill material into the wetlands. The CWA § 404(b)(1) Guidelines (Guidelines) and the 2008 Mitigation Rule (40 C.F.R. Part 230) require a three-step process to identify the Least Environmentally Damaging Practicable Alternative (LEDPA). Pursuant to the Guidelines, the Corps can only issue a permit for the LEDPA (40 C.F.R. § 230.10). First, an applicant for a CWA § 404 permit must demonstrate avoidance of impacts to waters of the U.S. Alternative B does not appear to meet this criterion, based on impacts to the majority of wetlands in the project. The next step is the minimization of impacts to wetlands that cannot be avoided. The SDEIS does not describe how Alternative B will minimize impacts to the wetlands identified in Block NW. Finally, an applicant must mitigate for those impacts which are unavoidable. The SDEIS does not describe how mitigation will be achieved for the wetlands in Block NW. Additionally, the CWA Section 404 regulations require mitigation of not only direct but secondary impacts to water resources (40 C.F.R § 230.11). Secondary impacts to water resources from coal mining activities could include drainage, reduction in in-stream flows, bank erosion, stream down cutting, or water quality degradation, even if wetlands themselves are not directly impacted. If Alternative B is selected, and wetlands or other waters of the U.S. are affected by direct and/or secondary impacts, a CWA Section 404 permit will be required. The permit will require that the Applicant comply with the Guidelines. The document does not present how Alternative B meets the requirements of the Guidelines regarding selection of the LEDPA for purposes of CWA Section 404 permitting of the discharge of dredged or fill material into waters of the U.S.

In addition to the Section 404 requirements, the BLM should also consider the requirements of Executive Order (EO) 11990 – Protection of Wetlands (May 24, 1977). EO 11990 directs Federal Agencies to provide leadership and take action to minimize the destruction, loss, or degradation of wetlands, and to preserve and enhance the natural and beneficial values of wetlands. The document does not appear to describe how the selection of Alternative B would meet the requirements of EO 11990.

Alternative B would result in environmental impacts to wetlands that are significant due to the magnitude of the proposed loss of wetlands, the high value of the wetlands in the ecosystem, and the fact that reasonable alternatives exist in the SDEIS that would avoid the impacts, as presented through Alternatives C and K1. Alternatives C and K1 do not include mining in Block NW, and result in 0.3 acres of wetland impacts. As such it would appear that the issuance of an acceptable CWA Section 404

permit by the Corps for the discharge of dredged or fill material into waters of the U.S. for Alternatives C and K1 is more likely. We recommend that the BLM select a preferred alternative that does not include leasing of Block NW to avoid significant direct and secondary environmental impacts to the wetlands and springs found in that Block.

## **Air Quality**

The EPA is concerned about the potential for mining of the Alton Coal Tract to result in unhealthy levels of PM<sub>10</sub>. Based on information presented in the SDEIS and Air Resources Appendix (Appendix K), the near-field air quality modeling projected exceedances of the 24-hour PM<sub>10</sub> NAAQS for nearly all meteorological years and for all alternatives. We are concerned that the SDEIS underreports the number of projected NAAQS exceedances because the discussion in the body of the document is based on modeled concentrations rounded to the nearest ten micrograms per cubic meter. EPA Air Quality Modeling Guidance states that modeled concentrations should not be rounded before comparing the resulting design concentration to the NAAQS or PSD increments. We recommend that Table 4.3.4 and the accompanying text be revised to correctly indicate the potential for adverse impacts based on the 24-hour PM<sub>10</sub> modeling results.

Due to the modeled potential for exceedances of the 24-hour PM<sub>10</sub> NAAQS as well as the monitored exceedances at the existing Coal Hollow Mine disclosed in Table 4.3.5, adequate mitigation to protect public health and welfare is critical. We support the air quality mitigation measures that have been added to the SDEIS, as well as the monitoring and adaptive management strategy described in Section 4.3.1.1. In particular, under the adaptive management strategy, we are pleased that near-field monitoring requirements are proposed for the project for PM<sub>10</sub>, as well as PM<sub>2.5</sub>, NO<sub>2</sub>, and potentially other pollutants. Successful implementation of the adaptive management strategy, including implementation of additional air quality mitigation measures if needed, will help to assure that the health and welfare of the citizens of Alton are protected.

The EPA supports the proposed monitoring plan, but remains concerned about the effectiveness of the plan given that the monitoring is proposed for a four year period. Due to the modeled and monitored potential for exceedances of the NAAQS, we recommend the monitoring site between the mine and the town of Alton be operated for the life of the mine to identify any need for corrective actions to reduce elevated air pollutant concentrations. We recommend the Final EIS clarify when the monitoring will start. In one place the SDEIS indicates that, "The four years of monitoring specified in the adaptive management strategy... would be timed to capture the maximum impact" and timing will be determined during permitting, while there is contradictory language indicating that the monitoring will start one year before operations and continue for four years.

We support the added design features that would be required as lease stipulations to reduce potential air quality impacts from project outset. We note that Section 4.3.1, Design Features, indicates that all generators *and* non-road diesel engines will be Tier 4; however, the list of required mitigation in Table 2.6.1 only indicates Tier 4 generators will be used. We support the commitment to require non-road engines to also be Tier 4, which will reduce PM, NO<sub>2</sub>, CO, VOC and HAP emissions, and we recommend that Table 2.6.1 be revised to correctly disclose this commitment.

## **Surface Water Quality**

Kanab Creek and its tributaries are on the State of Utah's CWA §303(d) List of Impaired Waters ("303(d) List") for total dissolved solids (TDS). Consequently, the EPA continues to have concerns related to the potential for future mining activities to contribute increased TDS or other pollutants and thereby impact water quality in Kanab Creek and its tributaries. Dispersed facilities, which will be located outside of the coal zone, are likely to be closer to water resources and are therefore of particular concern. Mine site water retention ponds also present a possible source of discharge to surface or groundwater resources. We recommend that dispersed facilities and retention ponds be located outside the alluvial deposits of Kanab Creek, which may provide a flow path to Kanab Creek.

According to the SDEIS, dispersed facilities will be prohibited within 100 feet of Kanab Creek, due to a UDOGM-required perennial stream buffer zone. Even while complying with this requirement, surface disturbance associated with dispersed facilities is projected within floodplains under all alternatives, which presents a risk of flood loss and a risk to water quality. Consistent with our comments on the DEIS, we continue to recommend that dispersed facilities not be developed within 100-year floodplains, in accordance with Executive Order 11988, Flood Plain Management. We additionally recommend that Best Management Practices (BMPs) that may be required to mitigate potential impacts, either by the BLM or through the UPDES permit, be listed in Section 4.16.8 – Potential Mitigation Measures.

## **Greenhouse Gas (GHG) Emissions and Climate Change**

We appreciate the discussion of climate change and the quantification of potential GHG emissions inventories presented in the SDEIS. In particular, the SDEIS includes quantification of fugitive methane releases from the coal in addition to anticipated CO<sub>2</sub> emissions from mining equipment and downstream emissions from end use of the coal. This provides a more complete picture of the potential GHG emissions and associated climate change impacts of future mining of the Alton Coal Tract. We believe the Council on Environmental Quality's (CEQ) December 2014 Revised Draft Guidance for Federal Agencies' Consideration of GHG Emissions and Climate Change offers a reasonable approach for conducting analyses of GHGs and climate change impacts, and we recommend that the BLM consider this guidance in the FEIS in place of CEQ's previous 2010 guidance.

We note that the SDEIS compares anticipated GHG emissions associated with the Alton Coal Tract with global emissions. We believe the comparison of project emissions to global emissions does not provide meaningful information for a coal leasing analysis. We recommend that the NEPA analyses provide a frame of reference, such as an applicable Federal, state, tribal or local goal for GHG emission reductions, and discuss whether the emissions levels are consistent with such goals. Also, we recommend BLM follow the approach recommended in the 2014 CEQ guidance of using the projected GHG emissions as proxy for assessing a proposed action's potential climate change impacts. This allows BLM to present the environmental impacts in clear terms and with sufficient information to make a reasoned choice between the no-action and alternatives and mitigation.

Lastly, we appreciate the BLM's inclusion of potential mitigation measures for reduction of GHGs that could be applied to future mining operations. In addition to the measures identified in the SDEIS, we reiterate our recommendation from the DEIS to also consider innovative strategies such as the installation and operation of a methane collection system prior to topsoil and overburden removal and methods for utilizing the methane onsite to offset diesel (or other fuel) combustion.

## **Environmental Justice**

The EPA appreciates the improved analysis of potential environmental justice impacts in the SDEIS, including a more refined identification of environmental justice communities and a detailed analysis of potential disproportionate adverse impacts. We continue to be concerned about the potential for disproportionate adverse impacts to the town of Alton from coal mining and coal hauling activities. In particular, the town of Alton may experience disproportionate adverse impacts related to air quality, noise and visual impacts, as disclosed in Table 4.12.8. Because of the proximity of Tract NW to the town, impacts to residents of Alton are likely to be greatest under the Proposed Action.

In order to reduce the potential for disproportionate adverse impacts to residents of Alton, the EPA recommends that the SDEIS identify specific measures that will be required to protect the community. We appreciate the inclusion of mitigation measures that could address environmental justice concerns in other sections of the document, including Air Resources and Aesthetics, and recommend that these measures also be discussed in section 4.12.6 as mitigation for potential environmental justice impacts. We recommend that the BLM and the future permittee continue to work with the community to adjust mining operations to be least impactful, including timing of operations and truck traffic, noise buffers, and light mitigation. We are therefore pleased to see that a noise monitoring and mitigation plan is included as a requirement for a successful bidder. We also recommend that the BLM reduce engine idling or implement a “no idling” policy during construction and mining operations to reduce impacts on residents of Alton. Such a measure is currently proposed as a potential measure to reduce greenhouse gas emissions (in Section 4.3.5), but is not required nor mentioned in the context of its potential reduction of impacts to residents. We recommend that this mitigation measure also be extended to the entire coal haul route and rail loadout location as a potential mitigation measure for future consideration.

Finally, we note that Table 4.12.8 incorrectly states that disproportionate adverse impacts to air quality, specifically PM<sub>10</sub>, would only occur under Alternative C. As discussed above under Air Quality, exceedances of the 24-hour PM<sub>10</sub> NAAQS have the potential to occur under all alternatives, as indicated by the near-field modeling results, and therefore Table 4.12.8 should be corrected.

## **Closing and EPA Rating**

The EPA appreciates the many updates made to the SDEIS to supplement information in the original DEIS. The document is high-quality, and provides adequate information for public disclosure and informed decision-making.

In situations where a Draft EIS does not identify a preferred alternative, the EPA reviews and rates each action alternative. Based on our review, the EPA is rating Alternative B as “Environmental Objections – Insufficient Information” (EO-1). The “EO” rating is based on the magnitude of proposed impacts to wetlands and the value of the wetlands in the ecosystem. These environmental impacts to wetlands are significant and should be avoided in order to provide adequate protection for the environment, and reasonable alternatives exist that avoid the impacts. The “1” rating means that the SDEIS adequately sets forth the environmental impacts of the alternatives. No further analysis is necessary, but the EPA has suggested the addition of clarifying information. The EPA is rating Alternative C and Alternative K1 as “Environmental Concerns – Insufficient Information” (EC-1). The “EC” rating means that the EPA’s review has identified potential impacts that should be avoided in order to fully protect the environment,

including potential impacts to air quality, water quality, and environmental justice communities. A description of EPA's rating system can be found at: <http://www2.epa.gov/nepa/environmental-impact-statement-rating-system-criteria>.

We appreciate the opportunity to comment on this document and hope our suggestions for improving it will assist you with preparation of the Final EIS. We would be happy to meet to discuss these comments and our recommendations. If you have any questions or requests, please feel free to contact either me at 303-312-6704 or Molly Vaughan of my staff at 907-271-1215 or by email at [vaughan.molly@epa.gov](mailto:vaughan.molly@epa.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read "P. S. Strobel", with a stylized flourish at the end.

Philip S. Strobel  
Director, NEPA Compliance and Review Program  
Office of Ecosystems Protection and Remediation

cc: Jason Gipson, U.S. Army Corps of Engineers

